

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STANKIC STJEPAN JOHN,)	
)	CASE NO. C09-1280-JLR
Petitioner,)	
)	
v.)	SUPPLEMENTAL REPORT AND
)	RECOMMENDATION
A. NEIL CLARK, Field Office Director, U.S.)	
Immigration and Customs Enforcement,)	
)	
Respondent.)	
_____)	

Petitioner is a native and citizen of Croatia who is currently detained by the U.S. Immigration and Customs Enforcement (“ICE”). On November 5, 2009, petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, which challenged the lawfulness of his detention without bond. (Dkt. 7.) He argued that he was entitled to a bond hearing before an Immigration Judge pursuant to *Casas-Castrillon v. Dep’t. of Homeland Sec.*, 535 F.3d 942 (9th Cir. 2008). (Dkt. No. 19.) Respondent moved to dismiss the habeas petition, arguing that petitioner was lawfully detained without bond pursuant to the mandatory detention provision under Section 236(c) of the Immigration and Nationality Act (“INA”) because the Board of Immigration Appeals (“BIA”) had not yet issued a final order. (Dkt. 12.)

01 However, on March 18, 2010, the BIA dismissed petitioner's appeal, and on March 29, 2010,
02 petitioner filed a Ninth Circuit Petition for Review, resulting in a temporary stay of removal.
03 *See John v. Holder*, No. 10-70970 (9th Cir. 2010).

04 As a result, on April 15, 2010, the undersigned Magistrate Judge issued a Report and
05 Recommendation ("R&R") concluding that petitioner was no longer subject to mandatory
06 detention and was entitled to an individualized bond hearing under INA § 236(a) before an
07 Immigration Judge with the power to grant him bail, unless the government establishes that he
08 is a flight risk or will be a danger to the community. *See Casas-Castrillon*, 535 F.3d at 948
09 (holding that once proceedings before the BIA are completed, the authority to detain criminal
10 aliens shifts from INA § 236(c) to INA § 236(a)). (Dkt. 21.)

11 However, on April 14, 2010, one day before the R&R was issued, petitioner was given a
12 bond hearing before an Immigration Judge who granted petitioner release under a bond of
13 \$30,000. (Dkt. 22, Ex. A.) Respondent asserts in his objections to the R&R that because
14 petitioner received a bond hearing before an Immigration Judge, the requirements of due
15 process have been met and there is no other relief that the Court can provide. *See*
16 *Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008)(holding the requirements of due
17 process are satisfied once the alien receives a bond hearing from a neutral adjudicator).
18 Accordingly, respondent argues that the habeas petition is now moot and should be dismissed.
19 The Court agrees with the respondent that petitioner's habeas petition is moot and should be
20 dismissed.

21 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of
22 the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir.

01 2002). “When a controversy no longer exists, the case is moot.” *Id.* Because petitioner was
02 provided an individualized bond hearing under INA § 236(a) before an Immigration Judge with
03 the power to grant him bail, the Court finds that petitioner’s request for a bond hearing should
04 be dismissed as moot. *See, e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992)
05 (holding that the District Court properly dismissed plaintiff’s claims that had become either
06 moot or unripe). Accordingly, I recommend that respondent’s motion to dismiss be granted,
07 and that this action be dismissed as moot. A proposed Order accompanies this Report and
08 Recommendation.

09 DATED this 21st day of July, 2010.

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11 Mary Alice Theiler
12 United States Magistrate Judge
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